

## 2 Laws, Regulations Influence Volpe's I-40 Verdict

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plete enough for a new determination by Volpe.

In his latest decision, Volpe was said to have considered two laws, plus some new Department of Transportation regulations governing acceptable noise levels.

One of the laws is an environmental requirement that prohibits use of park-

land for a federal highway unless the secretary of transportation determines there is no prudent and feasible alternative.

The second is the National Environmental Policy Act, which requires steps to minimize environmental damage as well as weighing benefits against costs.

Volpe was reported to have revealed

his decision late Thursday at a meeting with Representative Dan Kuykendall (R-Tenn.) and several others. Department sources, however, reported that Volpe stipulated that those present were not to make any disclosures until after his announcement Friday.

Kuykendall and his wife dined with Gov. and Mrs. Winfield Dunn Thursday

night and could not be reached for comment. The governor was in Washington for the presidential inaugural ceremonies.

The governor and his subordinates in the Tennessee Transportation Department apparently will bear the burden of determining what course to take after Volpe's decision is announced.

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## Volpe Spurns Current Proposal For Freeway Through Park

By MORRIS CUNNINGHAM

From The Commercial Appeal Washington Bureau

WASHINGTON, Jan. 18. — Transportation Secretary John A. Volpe was reported Thursday to have rejected the currently proposed, partially depressed Interstate 40 project through Overton Park in Memphis.

Volpe, in one of his final actions before leaving office, was reported to have determined that carrying out the current engineering plan would be inconsistent with environmental laws and regulations and would invite protracted litigation and further lengthy delays.

The retiring secretary — whose successor, Claude Brinegar, was confirmed without dissent by the Senate Thursday afternoon — is expected to announce details of his decision Friday morning.

While rejecting the currently proposed engineering plan, Volpe was said

to have identified several alternatives.

These would include a much more expensive cut-and-fill engineering plan. Under this plan I-40 would pass through a substantial part of the park through tunnels.

The Tennessee Department of Transportation long has sought to avoid this type of plan on grounds it would be far more expensive than the pending plan merely to depress parts of the roadway.

Volpe also was said to have identified as an alternative the routing of I-40 around the park, either on the north or south. The state Transportation Department has frowned on this alternative as being less feasible than going through the park.

During a federal court hearing in Memphis last year, an expert witness for the state testified that a 4,200-foot tunnel all the way through the park

would cost about 59 million dollars at 1971 prices. He estimated a partial tunnel 2,400 feet long would cost around 33 million dollars.

The cost of the road through the park which Volpe rejected has been estimated at about four million dollars. The state already has purchased the right-of-way.

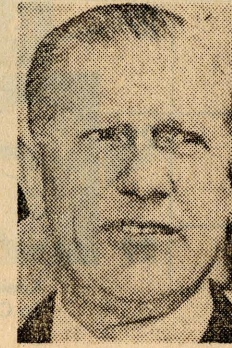
Interstate highways are financed 90 per cent by the federal government and 10 per cent by the state. Volpe's decision apparently cuts off federal funding for the 3.7-mile I-40 section that would complete the interstate through Memphis.

Volpe is known to have spent a great amount of time studying the situation before arriving at his Thursday afternoon decision.

Associates said he was influenced in the end by a conviction that approval of the proposed, slightly depressed trans-park route would be inconsistent



Dan Kuykendall



John Volpe



Claude Brinegar

with environmental laws and regulations, particularly concerning noise levels, and would invite further litigation and delays.

The statement he is scheduled to release Friday is expected to express his

concern for the needs of the motoring public in Memphis and to say that further delays in completing I-40 through Memphis should be avoided.

Volpe's decision apparently checks the issue back to the state Transporta-

tion Department. The next step in the long controversy apparently will be the state agency's drafting a new engineering proposal for submission to incoming secretary Brinegar.

Volpe's decision was a reversal of his previous stand. On Nov. 5, 1969, he approved a proposal for a partially depressed route through the park and the federal Department of Transportation, under his leadership, opposed the subsequent legal challenges and litigation brought by Citizens to Preserve Overton Park and other environmental groups.

On March 2, 1971, however, the Supreme Court upset Volpe's decision on grounds it was based on an inadequate administrative record. The case was remanded to federal District Court in Memphis and only recently was com-

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